

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**DAVID LOUIS HOLZMAN, JR.,  
Plaintiff**

**No. 3:16cv0927**

**(Judge Munley)**

**v.**

**(Magistrate Judge Arbuckle)**

**CAROLYN W. COLVIN,  
*Acting Commissioner of Social  
Security,*  
Defendant**

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**ORDER**

**AND NOW**, to wit, this 28th day of September 2018, we have before us for disposition Magistrate Judge William I. Arbuckle's report and recommendation, which proposes that the plaintiff's request for a new administrative decision be granted and the ALJ's decision denying the plaintiff's application for benefits under Title II and XVI of the Social Security Act be vacated.

No objections to the report and recommendation have been filed, and the time for such filing has passed. In fact, the defendant has waived the opportunity to object. (Doc. 17). Therefore, in deciding whether to adopt the report and recommendation, we must determine if a review of the record evidences plain error or manifest injustice. FED. R. CIV. P. 72(b) 1983 Advisory Committee Notes ("When no timely objection is filed, the court need only satisfy itself that there is

no clear error on the face of the record to accept the recommendation"); see also 28 U.S.C. § 636(b)(1); Sullivan v. Cuyler, 723 F.2d 1077, 1085 (3d Cir. 1983).

After a careful review, we find neither a clear error on the face of the record nor a manifest injustice. Accordingly, it is hereby **ORDERED** as follows:

- 1) The magistrate judge's report and recommendation (Doc. 16) is **ADOPTED**;
- 2) The ALJ's decision denying the plaintiff's application for benefits under Titles II and XVI of the Social Security Act is **VACATED**;
- 3) The Clerk of Court is directed to remand this case to the Commissioner to conduct a new administrative hearing;
- 4) The Clerk of Court is directed to enter judgment in favor of the plaintiff, David Louis Holzman, Jr., and against Acting Commissioner of Social Security; and
- 5) The Clerk of Court is directed to close this case.

**BY THE COURT:**



**JUDGE JAMES M. MUNLEY**  
**United States District Court**